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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/441,055 11/16/99 USUDA

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EXAMINER

HM22/0605

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ART UNIT

PAPER NUMBER

1652

DATE MAILED:

06/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/441,055

Applicant(s)
Usuda et al.

Examiner
Peter Tung

Art Unit
1652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above, claim(s) 1-9 and 11 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☒ Claim(s) 10 is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some* c) ☐ None of:

1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4

20) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse of Group II, claim 10 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness. Applicants argue that the Office has not shown that a burden exists in searching all of the claims. With regard to Groups I and II, Applicants argue that there is no evidence of record to show that the claimed product is useful as the Office has alleged and that there is a failure to show that producing methionine by chemical synthesis is materially different from what is claimed. This is not found persuasive because adequate reasons were provided in the previous Office action. see paragraphs 2 and 3. An undue burden exists to search all the claims, as the grouping of the claims places each group in a different subclass, where a search for one group's subclass would not necessarily require a search for the other subclasses. Additionally, a search of the non-patent literature for all the claims would be an undue burden as they are recognized in the art to be divergent subject matter. For Groups I and II, because the process of producing methionine can be produced by chemical synthesis as opposed to the biosynthetic production of methionine by a microorganism, the two inventions are distinct. Applicants have not provided any evidence that chemical synthesis of methionine, which is well known in the art, is not useful or not materially different than that of the instant invention.

The requirement is still deemed proper and is therefore made FINAL.

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2. Claims 1-9 and 11 are withdrawn from further consideration as being drawn to a non-elected invention.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

4. Claim 10 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Tung, Ph.D. whose telephone number is (703) 308-9436. The examiner can normally be reached on Monday-Friday from 9:00 to 5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy, Ph.D., can be reached on (703) 308-3804. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-0294.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.



PONNATHAPACHUDAMURTHY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600